



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

James Gregg, D.C.

Respondent Name

Travelers Indemnity Company

MFDR Tracking Number

M4-17-2066-01

Carrier's Austin Representative

Box Number 5

MFDR Date Received

March 7, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "... testing shall be billed using the appropriate CPT codes & reimbursed in addition to the examination fee."

Amount in Dispute: \$86.30

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CPT code 95831 is described as manual muscle testing as a separate procedure with a report by the AMA CPT manual ... There is no separate procedure described in the Designated Doctor report of manual muscle testing apart from the physical exam conducted as part of the Designated Doctor evaluation, and no separate report was submitted."

Response Submitted by: Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 3, 2016	Manual Muscle Testing	\$86.30	\$86.30

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
- 28 Texas Administrative Code §134.235 sets out the fee guidelines for return to work and evaluation of medical care examinations provided on or after September 1, 2016.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 4 – The procedure code is inconsistent with the modifier used or a required modifier is missing.

- 10 – The billed service requires the use of a modifier code.
- B12 – Services not documented in patients medical records.
- 275 – The charge was disallowed: as the submitted report does not substantiate the service being billed.

Issues

1. Are Travelers Indemnity Company's reasons for denial of payment supported?
2. Is James Gregg, D.C. entitled to reimbursement for the services in question?

Findings

1. Dr. Gregg is seeking reimbursement for manual muscle testing performed in conjunction with a designated doctor examination on October 3, 2016. Per Explanation of Reimbursement dated October 27, 2016, Travelers Indemnity Company (Travelers) denied the disputed services with claim adjustment reason codes 4 – "THE PROCEDURE CODE IS INCONSISTENT WITH THE MODIFIER USED OR A REQUIRED MODIFIER IS MISSING," and 10 – "THE BILLED SERVICE REQUIRES THE USE OF A MODIFIER CODE." Review of the submitted documentation finds that Travelers did not maintain this denial on subsequent Explanations of Reimbursement or its position statement. Therefore, this denial will not be considered.

Per Explanation of Reimbursement dated December 7, 2016, Travelers denied the disputed services with claim adjustment reason codes B12 – "SERVICES NOT DOCUMENTED IN PATIENTS MEDICAL RECORDS," and 275 – "THE CHARGE WAS DISALLOWED: AS THE SUBMITTED REPORT DOES NOT SUBSTANTIATE THE SERVICE BEING BILLED." In its position statement, Travelers argued that "There is no separate procedure described in the Designated Doctor report of manual muscle testing apart from the physical exam conducted as part of the Designated Doctor evaluation, and no separate report was submitted."

28 Texas Administrative Code §134.235 states:

The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier "RE" ... Testing that is required shall be billed using the appropriate CPT codes and reimbursed **in addition to the examination fee** [emphasis added].

The division concludes that testing provided in accordance with 28 Texas Administrative Code §134.235 is reimbursable as a separate procedure. Review of the submitted documentation finds that Dr. Gregg performed muscle testing for two muscles. Travelers' denial reason is not supported.

2. Reimbursement for manual muscle testing is subject to the fee guidelines found in 28 Texas Administrative Code §134.203(c) which states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The maximum allowable reimbursement (MAR) is calculated by substituting the division conversion factor. The division conversion factor for 2016 is \$56.82.

For CPT code 95831 on October 3, 2016, the relative value (RVU) for work of 0.28 multiplied by the geographic practice cost index (GPCI) for work of 1.00 is 0.28. The practice expense (PE) RVU of 0.55 multiplied by the PE GPCI of 0.920 is 0.506. The malpractice RVU of 0.03 multiplied by the malpractice GPCI of 0.822 is 0.02466. The sum of 0.810660 is multiplied by the division conversion factor of \$56.82 for a total

of \$46.06. This total is multiplied by 2 units for a MAR of \$92.12. Dr. Gregg is seeking \$86.30. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$86.30.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$86.30, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____ Laurie Garnes _____	_____ May 5, 2017 _____
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.